

ORIGINAL

18
3/13/02
v

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT C. WELDON

Plaintiff

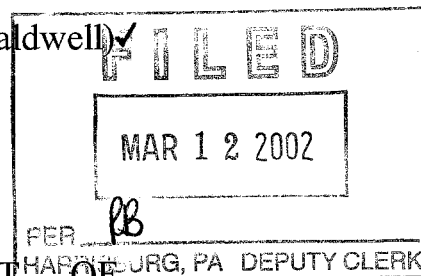
v.

MR. NORK, *et al.*,

Defendants

NO. 1:CV-01-1098

(Judge Caldwell)



DEFENDANT'S STATEMENT OF
MATERIAL AND UNDISPUTED FACTS

Defendant Anthony J. Nork, by his attorneys, submits the following facts are not in dispute and warrant entering judgment in favor of defendant and against plaintiff:

1. At all times relevant to the complaint defendant was employed by the Pennsylvania Department of Corrections ("DOC") as a Corrections Officer I at the State Correctional Institution at Dallas (institution). Nork declaration. ¶ 1.

2. While defendant does not recall having any conversation with plaintiff at any

time regarding him attending any other inmate's misconduct hearing in which the general issue of him being another inmate's witness was raised, defendant has never threatened plaintiff or any other inmate for any reason including that they participated in any hearing as a witness. Nork declaration, ¶¶ 2 & 3.

3. Defendant has never had no conversation with plaintiff in which defendant used the "N" word. Nork declaration, ¶ 3.

4. Defendant only became aware that plaintiff had testified as a witness at that other inmate's hearing when plaintiff made his allegation that we had a conversation about it. Nork declaration, ¶ 4.

5. This was after defendant had issued plaintiff misconduct report number A099593 on February 27, 2001. *Id.*

6. Defendant issued plaintiff that misconduct report because of what he had witnessed plaintiff doing in the stairwell. Nork declaration, ¶ 5.

7. Defendant did not issue the misconduct report to retaliate against plaintiff. Nork declaration, ¶ 6.

WHEREFORE, as these facts are not in dispute and the law applicable to plaintiff's claim warrants judgment in favor of defendant, the Court should enter summary judgment in favor of defendant Anthony J. Nork and against plaintiff Robert C. Weldon.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By: *Francis R. Filipi*
FRANCIS R. FILIPI
Senior Deputy Attorney General
Attorney ID# 18630

SUSAN J. FORNEY
Chief Deputy Attorney General

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg PA 17120
717.787.3874 (Direct Dial)
717.772.4526 (Facsimile)
Internet: ffilipi@attorneygeneral.gov

Counsel for defendant
Anthony J. Nork

Date: March 12, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT C. WELDON

Plaintiff

v.

MR. NORK, *et al.*,
Defendants

:
:
:
:
:
:
:
:
:

NO. 1:CV-01-1098

(Judge Caldwell)

DECLARATION OF ANTHONY J. NORK

I, Anthony J. Nork, hereby declare under penalty of perjury that the following
is true and correct from my personal knowledge:

1. I am employed by the Pennsylvania Department of Corrections ("DOC").

I am a Corrections Officer I at the State Correctional Institution at Dallas
(institution) and have held this position at all times relevant to this complaint.

2. I do not recall having any conversation with Inmate Weldon at any time
regarding him attending any other inmate's misconduct hearing.

3. I consider myself a professional. While I do not recall ever having had a
conversation with Inmate Weldon in which the general issue of him being another
inmate's witness was raised, I have never threatened Inmate Weldon or any other

inmate for any reason including that they participated in any hearing as a witness and know I had no conversation with him in which I used the "N" word.

4. I do not know what transpired at that other inmate's hearing and did not know Inmate Weldon testified as a witness until he made his allegation that we had a conversation about it, which was after I had issued him misconduct report number A099593 on February 27, 2001.

5. I issued that misconduct report stating what I witnessed Inmate Weldon doing in the stairwell. The misconduct speaks for itself and is a truthful rendition of what I observed. (See the attached true and correct copy of misconduct report number A099593).

6. I did not issue the misconduct report to retaliate against Inmate Weldon and I have nothing against him so long as he obeys all laws and regulations of the Department of Corrections.

March 8, 2002
DATE


ANTHONY J. NORK

09/20/2001 09:27

5708204886

SCID

PAGE 02

DC-141		PART I		COMMONWEALTH OF PENNSYLVANIA		A 099593	
MISCONDUCT REPORT <input type="checkbox"/> OTHER		DEPARTMENT OF CORRECTIONS					
Number 7681	Name WELDON	Institution SCID	Incident Time 24 Hr. Base 0935	Incident Date 2-27-01	Date of Report 2-27-01		
Quarters J	Place of Incident J BLOCK STAIRWAY TO LEV II						
OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)							
Number	Name	I	W	DC Number	Name	I	W
MISCONDUCT CHARGE OR OTHER ACTION A #19 ENGAGING IN SEXUAL ACTS WITH OTHERS SODOMY CLASS I #1 ASSAULT							
STAFF MEMBER'S VERSION ON ABOVE DATE AND APPROX TIME, THIS OFFICER AS MAKING ROUTINE SECURITY ROUND ON J BLOCK WHEN I OBSERVED INMATE WELDON DA 7681 AND INMATE VANDENDORP IN THE STAIRWAY LEADING TO LEV II. WELDON WAS AGGRESSIVELY ATTEMPTING TO FONDLE VANDENDORP'S PENIS AND GROIN AREA. VANDENDORP RESISTED WELDON'S SEXUAL AGGRESSIONS HOWEVER WELDON WOULD NOT STOP UNTIL HE OBSERVED THIS OFFICER.							
IMMEDIATE ACTION TAKEN AND REASON Confined to R.H.U. pending further action by the hearing officer							
PRE-HEARING CONFINEMENT							
IF YES							
TIME 1245	DATE 2-27-01						
FORMS GIVEN TO INMATE <input checked="" type="checkbox"/> REQUEST FOR WITNESSES AND REPRESENTATION		<input checked="" type="checkbox"/> INMATE'S VERSION					
REPORTING STAFF MEMBER SIGNATURE AND TITLE A. J. Park COI		ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY Capt. Coleman		DATE AND TIME INMATE GIVEN COPY DATE 2-27-01		TIME 24 HOUR BASE 1325	
YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE 2-28-01		TIME 0900		Misconduct Category <input checked="" type="checkbox"/> CLASS I <input type="checkbox"/> CLASS 2		Signature of Person Serving Notice C. Shelly (Shelley)	
NOTICE TO INMATE You are scheduled for a hearing on this allegation on the date and the time indicated or as soon thereafter as possible. You may remain silent, if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class I misconduct, any pre-release status you have will be revoked.							

GOLDENROD—Deputy Superintendents

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT C. WELDON

Plaintiff

v.

MR. NORK, *et al.*,


Defendants

:
:
:
: NO. 1:CV-01-1098
:
: (Judge Caldwell)
:
:
:
:

CERTIFICATE OF SERVICE

I, FRANCIS R. FILIPI, Senior Deputy Attorney General, hereby certify that on this date I caused to be served a copy of the foregoing Defendant's Statement of Material and Undisputed Facts and Supporting Declaration by placing it in the United States Mail, postage prepaid, first class, in Harrisburg, PA, addressed to the following:

Robert C. Weldon, DL-7681
State Correctional Institution at Dallas
1000 Follies Road
Dallas, PA 18612-0286


FRANCIS R. FILIPI
Senior Deputy Attorney General

DATED: March 12, 2002